



PTO/SB/33 (07-05)

United States Patent & Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 59864.00280
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number: 10/670,221 Filed: September 26, 2003
	First Named Inventor:
	Kati AHVONEN, et al.
	Art Unit: 2151 Examiner: Nguyen, Van Kim T.

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed

☒ Attorney or agent of record.
Registration No. 51,091

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March 20, 2006

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kati AHVONEN, et al.

Art Unit: 2151

Application No.: 10/670,221

Examiner: Nguyen, Van Kim T.

Filed: September 26, 2003

Attorney Dkt. No.: 59864.00280

For: ENHANCED QOS CONTROL

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 20, 2006

This is a Pre-Appeal Brief Request for Review from the final rejection set forth in an Office Action dated October 6, 2005 ("Office Action"), finally rejecting claims 1-9, 12-19, 24-56, 58-65, 69 and 70-73. Applicants submit that cited reference fails to disclose or suggest all of the limitations of any of the pending claims and that this failure constitutes clear error with regard to this final rejection.

The cited reference fails to disclose or suggest all of the limitations of any of the pending claims.

The claim rejections are set forth in page 2 of the Office Action. The Office Action rejected claims 1-9, 12-19, 24-56, 58-65, 69 and 70-73 under 35 U.S.C. §102(e) as being anticipated by 6,621,793 to Widegren et al (Widegren). Applicants respectfully submit that, the lack of a *prima facie* case of anticipation constitutes clear error as a basis for rejecting the presently pending

claims.

Claim 1, upon which claims 2-22, 69 and 70 depend, recites a method of providing services to user equipment in a communications network. Claim 1 recites in part, the feature of providing from the database to the policy decision entity the subscriber information regarding permitted conditions for the users to obtain the services.

Claim 24, from which claims 25-33 and 71 depend, recites a system for controlling the providing of service to user equipment. The system includes a communication system including a database storing subscriber information regarding subscription of users of the user equipment to obtain sessions of the services. Claim 24 further recites in part the feature, the database provides the stored subscriber information to the policy decision entity regarding subscription of the users of the user equipment to obtain the sessions of the services provided by the at least one network or server.

Claim 36, from which claims 37-47 and 72 depend, recites a system for controlling the providing of services to user equipment comprising a communication system including a policy enforcement entity to which the user equipment is coupled to obtain the services, wherein an entity includes a database in the communication system which stores subscriber information regarding subscription of users of the user equipment to obtain the services from the at least one network or server. Further claim 36 recites in part the database provides the stored subscriber information to the policy decision entity regarding subscription of the users of the user equipment to obtain the services provided by the at least one network or server.

Claim 48, from which claims 49-68 and 73 depend, recites a method in which a communications system wherein service information is provided from at least one network or

server, regarding service offered by the at least one network or server to the user equipment, which is utilized by the policy decision entity to formulate, policy rules based upon subscriber information and the service information. Claim 48 recites in part providing from a database to the policy decision entity the subscriber information regarding permitted conditions for the user equipment to obtain the service which is used by the policy decision entity as part of the formulation of the policy rules. The method further includes the policy entity enforces providing the service to the user equipment in accordance with the at least one characteristic of the allowed service.

Applicants respectfully submit that the present claims recite features that are neither disclosed nor suggested in the cited reference.

Widegren discloses a method of filtering and gating data flow in a QoS connection between a remote host and user equipment in a packet data network using policy control mechanisms. Widegren discloses that the method includes a remote host, or the user equipment, initiating an application in an application server, such as an SIP proxy server. See column 11 lines 43-52 of Widegren. Widegren discloses that application server support in the network may be provided by the proxy server, or any type of IP based application support, where the IP based application is controlled by end-to-end signaling. See column 14 lines 38-41 of Widegren.

Applicants respectfully submit that Widegren fails to disclose or suggest at least the feature of providing from the database to the policy decision entity the subscriber information regarding permitted conditions for the users to obtain the services as recited in claim 1 and similarly recited in claims 24, 36 and 48. The Office Action alleges that the application server sends subscriber specific information to the PCF. Instead, Widegren discloses that a corresponding PCF in a policy

server receives from the application server, filtering data received by the application server during the session. However, none of this data is subscriber specific, contrary to that which is alleged in the Office Action.

The Office Action, on page 5, alleged that this feature is inherent in that the application server provides the user QoS information to the policy decision entity. Further, the Office Action alleged that the proxy server inherently provides information regarding the services offered to the user equipment, which is utilized by the policy decision entity to either authorize or deny the QoS connection. Applicants respectfully submit that the Office Action did not present a proper basis for the alleged inherency of these features.

To serve as an anticipation, when a cited reference is silent about the asserted inherent characteristics, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Continental Can Co. USA v. Monsanto Co., 948 F.2d 1264, 1268 20 USPQ2d 1746, 1749 (Fed. Cir. 1991).

Applicants respectfully submit that the Office Action did not establish that the application server necessarily provides the user specific information to the policy decision entity, as alleged in the Office Action. Furthermore, there is no disclosure or even suggestion of such a feature, either in Widegren or in the prior art in general. Accordingly, Applicants submit that the cited reference does not explicitly or inherently disclose the feature of providing from the database to the policy decision entity the subscriber information, as recited in the present claims. Thus, the lack of establishing a prima facie case of anticipation constitutes clear error in the Office Action.

Conclusion

For all of the above noted reasons, it is respectfully requested that the outstanding rejections be withdrawn, because the cited references do not teach or suggest all of the elements of any of the presently pending claims. Hence, the lack of a *prima facie* case of anticipation constitutes clear error as a basis for rejecting the presently pending claims. Therefore, it is respectfully requested that all of the pending claims be allowed, and that this application be passed to issue.

Respectfully submitted,



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Enclosures: Form PTO/SB/33
Notice of Appeal
Petition for Extension of Time